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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,238	12/31/2003	Richard Paul Lewis	19507	8843

7590	11/02/2007
Mr. Stephen E. Bondura Dority & Manning, P.A. P.O. Box 1449 Greenville, SC 29602	

EXAMINER	
HAUGLAND, SCOTT J	

ART UNIT	PAPER NUMBER
3654	

MAIL DATE	DELIVERY MODE
11/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Communication Re: Appeal

Application No.

10/750,238

Examiner

Scott Haugland

Applicant(s)

LEWIS ET AL.

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
- (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$\_\_\_\_\_.
- (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☐ The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:

- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
- (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$\_\_\_\_\_.


**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).**

3. ☒ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (b) ☒ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d) ☒ other: See Continuation Sheet.

4. ☒ Because of the dismissal of the appeal, this application:

- (a) ☒ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration.

  
**Peter M. Cuomo**  
Supervisory Patent Examiner  
Technology Center 3600

Continuation of 3. (d) Other: On 4/16/07, Appellant was notified that the ground of rejection section did not state a grounds of rejection for each claim on appeal (See First Notification of Non-Compliant Appeal Brief) and was given a 1 month, extendable up to 6 month, time period to submit a reply. Appellant submitted a revised brief on 4/19/07, which was again found defective for the same reason (See Second Notification of Non-Compliant Appeal Brief f 7/26/07). Appellant was informed that the time period set in the 4/16/07 notification was still running. Appellant submitted another revised appeal brief on 8/9/07, which again did not state a grounds of rejection in section 6 for each claim on appeal. For example, in section 3 appellant states, "Applicants appeal the final rejection of claims 1-11, 14-23, and 25-40." But in section 6, claims 10 and 11 do not appear. Claims 10 and 11 were rejected in the final rejection under 35 USC 103 as being unpatentable over Formon et al. in view of Yamakawa et al. and further in view of Narita et al. However, this ground of rejection also does not appear in section 6. The time period for reply set in the 4/16/07 notification has expired and no extensions of time are available, therefore appeal is dismissed (37 CFR 41.37(d)). Since none of the claims are allowable, the application is abandoned.